

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-3, 6-9, 22-26, 28-30, 33-34, 37-39, and 54 are pending in the present application, of which claims 1, 22, 26, 33, 39 and 54 are independent.

**Noted - Acknowledgement of Priority Document Received by USPTO**

The indication (see Office Action mailed June 25, 2004) that a certified copy of the priority document was received by the USPTO is noted with appreciation.

**Official Consideration of IDS Requested**

The indications (see attachment to the Office Action mailed May 15, 2006, November 15, 2006 and May 25, 2007) that the Information Disclosure Statement ("IDS") as filed on December 15, 2005, July 14, 2006 and December 20, 2006, and references listed therein have been considered is noted with appreciation.

On September 28, 2005 and April 16, 2008, additional IDS'es including one or more forms PTO-1449, PTO/SB/08a and/or PTO/SB/08b, were submitted in the present application. Official consideration by the USPTO of any reference listed on such forms, and thus the IDS'es themselves, would be indicated by the Examiner initialing, signing and dating such forms. As of the date of this response, no initialed, signed and dated version(s) of such forms has been made of record, hence the undersigned infers that the IDS has not yet been considered. The undersigned has no reason to believe that this circumstance implies anything other than a minor oversight on the part of the USPTO. Accordingly, official consideration of the IDS is hereby respectfully requested.

**Claim Rejection Under 35 U.S.C. §101**

Claim 39 is rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, the Office Action asserts that the claimed invention

recites "an apparatus" comprising "a collection unit", "a popularity degree calculation unit" and "a retrieval service unit", however, the apparatus comprising three units would reasonably be interpreted be on of ordinary skill in the art as software per se.

By the foregoing amendments, it has been clarified that the claimed invention is tied to a machine or apparatus. Accordingly, withdrawal of the rejection is respectfully requested.

### **Claim Rejection Under 35 U.S.C. §103**

Claims 1-3, 6-9, 22-26, 28-30, 33-34, 37-39, and 54 are rejected under 35 U.S.C. §103(a) as being unpatentable over Olstad et al. (US 20020032772) in view of Horvitz (US 6085226).

### **INDEPENDENT CLAIM 1**

As an example, amended independent claim 1 recites (among other things) a feature of "calculating a popularity transition degree indicating how the popularity degree of each of the documents varies as time elapses by both a direction and a degree of transition of the popularity degree for each of the extracted documents based on the popularity degree during the first time period and the second time period." (Underlined emphasis added).

As will be explained below, at least this feature of claim 1 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference.

The Horvitz reference states, in connection with the discussion of its Fig. 6 (as cited in the Office Action):

*Modeling component 610 incorporates user model 612. This model specifies for a given web page, in terms of its URL, a set of successive web pages (one or more and in terms of their URLs) to which the user is likely to next transition, i.e. visit next, and for each such page a numeric probability (hereinafter a "transition" probability) that the user will select that particular page.*

(Underlined emphasis added). Hence, such a "transition" probability is not the same as the "popularity degree" cited in the claimed invention (as described in the

specification, for example, paragraph [0009]). That is because the likelihood of a user's next web-page transition ("transition" probability in Horvitz) is not the same as the number of other documents linked to the current document ("popularity degree" as claimed)

Accordingly, the above-noted feature of claim 1, is a distinction over the Horvitz reference, and thus over the combination of Horvitz and Olstad.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 1 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 1. Claims 2-3 and 6-9 ultimately depend from claim 1, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 1-3 and 6-9 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

#### **INDEPENDENT CLAIM 22**

As an example, amended independent claim 22 recites (among other things) a feature similar to that noted above for claim 1. Hence, at least this feature of claim 22 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference, for at least the same reasons set forth above for claim 1.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 22 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 22. Claims 23-25 ultimately depend from claim 22, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 22-25 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

#### **INDEPENDENT CLAIM 26**

As an example, amended independent claim 26 recites (among other things) a feature similar to that noted above for claim 1. Hence, at least this feature of claim 26 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference, for at least the same reasons set forth above for claim 1.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 26 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 26. Claims 28-30 ultimately depend from claim 26, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 26 and 28-30 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

**INDEPENDENT CLAIM 33**

As an example, amended independent claim 33 recites (among other things) a feature similar to that noted above for claim 1. Hence, at least this feature of claim 33 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference, for at least the same reasons set forth above for claim 1.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 33 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 33. Claims 34, 37-38 ultimately depend from claim 33, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 33-34 and 37-38 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

**INDEPENDENT CLAIM 39**

As an example, independent claim 39 recites (among other things) a feature similar to that noted above for claim 1. Hence, at least this feature of claim 39 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference, for at least the same reasons set forth above for claim 1.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of

the claimed invention. In view of the distinction of claim 39 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 39.

In view of the foregoing discussion, the rejection of claims 39 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

#### **INDEPENDENT CLAIM 54**

As an example, independent claim 54 recites (among other things) a feature similar to that noted above for claim 1. Hence, at least this feature of claim 54 is a distinction over the Horvitz reference, and thus over its combination with the Olstad et al. reference, for at least the same reasons set forth above for claim 1.

The noted feature also is a distinction over the Olstad et al. reference as evidenced, e.g., by the Office Action. That is, the Office Action does not assert the Olstad et al. reference as disclosing the noted feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 54 noted above, at least one claimed element is not present in the asserted combination of references.

Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 54.

In view of the foregoing discussion, the rejection of claims 54 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

#### **Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the

**PATENT**

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above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

Dated: April 20, 2009

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